



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,208	01/23/2002	Joerg Bischof	CH920000005	5051

54856 7590 05/18/2006

LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY, NY 10952

EXAMINER

LEWIS, CHERYL RENEA

ART UNIT	PAPER NUMBER
----------	--------------

2167

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/055,208	Applicant(s) BISCHOF ET AL.	
	Examiner Cheryl Lewis	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2167

1. This office action is in response to the applicants' amendment received on February 14, 2006.
2. Claims 1-17 are presented for examination.
3. The applicants have amended claims 1, 5, and 10-12. The applicants have added new claims 13-17.

Remarks

4. The examiner thanks the applicants for placing the allowable subject matter in an independent claim format. However, upon closer examination of the claim limitations, the claimed subject matter regarding "only in the affirmative case but not otherwise" has been determined to have a vague meaning.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1, 5, and 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5, and 10-12 recite "only in the affirmative case but not otherwise".

This claim limitation is vague and difficult to interpret. It appears to be only an "expression" of an transaction statement. It does not appear to have any executable

Art Unit: 2167

qualities that would produce tangible results. More importantly, this phrase appears to be incomplete, it seems as though another step should follow "only in the affirmative case but not otherwise" in order to make the process more complete.

The examiner kindly requests that the applicants consider removing and/or further amending claims 1, 5, and 10-12 to give further clarity to the claim limitations of "only in the affirmative case but not otherwise".

Thus the remaining dependent claims are also rejected for being dependent upon the above recited independent claims.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1, 5, and 10-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 IV.B.2.(b)

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

9. Claims 1, 5, and 10-12 are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts.

Although, claims 1, 5, and 10-12 are tangibly embodied on a computing apparatus the claims fail to produce tangible results.

Claims 1, 5, and 10-12 are non-statutory because the claims recite a series of programmable steps, i.e. "executing nested transaction... Start Transaction... End Transaction", however these steps do not recite an enablement feature which would cause an improvement to the applicants' invention. In other words, what are the programmable features embodied in claims 1, 5, and 10-12 are seeking to improve. The programmable features do not recite any specific computer related data structure that is being improved or manipulated. Are these programmable steps attempting to provide (1) more memory space, (2) manipulation of data for the purpose of displaying, etc.? The examiner suggests that the applicants should consider amending the claims to recite the specific computer related data structures or computer related data objects (memory, cache, storage, display, interface, etc.) that are to be improved, executed, or manipulated etc.

The claim recites a series of programmable steps, however the claims does not recite any of the following steps which would be within the technological art for a practical application to produce tangible results:

(a) "computing" data;

(b) "storing" data;

(c) "receiving" data"; or

(d) "displaying" data, etc.

Also, the independent claims are silent on the type of transactions that are being executed. For instance, (1) façade library, (2) transaction object comprises a depth counter, (3) Commit Transaction operation, and (3) Rollback Transaction do not comprise any detailed data about the type of executable operation that is being performed.

NAME OF CONTACT

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

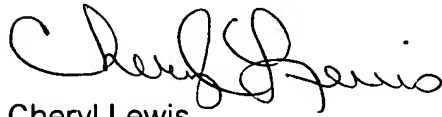
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

Art Unit: 2167

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cheryl Lewis", is positioned above the printed name.

Cheryl Lewis
Patent Examiner
May 12, 2006